

## Merit Systems Protection Board

## § 1201.85

discovery and motions for the appearance of nonparties must be filed with the judge in accordance with § 1201.73(c)(2) and (d)(4).

(b) *Content of order.* Any order issued will include, where appropriate:

(1) A provision that the person to be deposed must be notified of the time and place of the deposition;

(2) Any conditions or limits concerning the conduct or scope of the proceedings or the subject matter that may be necessary to prevent undue delay or to protect a party or other individual or entity from undue expense, embarrassment, or oppression;

(3) Limits on the time for conducting depositions, answering written interrogatories, or producing documentary evidence; and

(4) Other restrictions upon the discovery process that the judge sets.

(c) *Noncompliance.* The judge may impose sanctions under § 1201.43 of this part for failure to comply with an order compelling discovery.

### § 1201.75 Taking depositions.

Depositions may be taken by any method agreed upon by the parties. The person providing information is subject to penalties for intentional false statements.

## SUBPOENAS

### § 1201.81 Requests for subpoenas.

(a) *Request.* Parties who wish to obtain subpoenas that would require the attendance and testimony of witnesses, or subpoenas that would require the production of documents or other evidence under 5 U.S.C. 1204(b)(2)(A), should file their motions for those subpoenas with the judge. Subpoenas are not ordinarily required to obtain the attendance of Federal employees as witnesses.

(b) *Form.* Parties requesting subpoenas must file their requests, in writing, with the judge. Each request must identify specifically the books, papers, or testimony desired.

(c) *Relevance.* The request must be supported by a showing that the evidence sought is relevant and that the scope of the request is reasonable.

(d) *Rulings.* Any judge who does not have the authority to issue subpoenas

will refer the request to an official with authority to rule on the request, with a recommendation for decision. The official to whom the request is referred will rule on the request promptly. Judges who have the authority to rule on these requests themselves will do so directly.

### § 1201.82 Motions to quash subpoenas.

Any person to whom a subpoena is directed, or any party, may file a motion to quash or limit the subpoena. The motion must be filed with the judge, and it must include the reasons why compliance with the subpoena should not be required or the reasons why the subpoena's scope should be limited.

### § 1201.83 Serving subpoenas.

(a) Any person who is at least 18 years of age and who is not a party to the appeal may serve a subpoena. The means prescribed by applicable state law are sufficient. The party who requested the subpoena, and to whom the subpoena has been issued, is responsible for serving the subpoena.

(b) A subpoena directed to an individual outside the territorial jurisdiction of any court of the United States may be served in the manner described by the Federal Rules of Civil Procedure for service of a subpoena in a foreign country.

### § 1201.84 Proof of service.

The person who has served the subpoena must certify that he or she did so:

(a) By delivering it to the witness in person,

(b) By registered or certified mail, or

(c) By delivering the subpoena to a responsible person (named in the document certifying the delivery) at the residence or place of business (as appropriate) of the person for whom the subpoena was intended.

The document in which the party makes this certification also must include a statement that the prescribed fees have been paid or offered.

### § 1201.85 Enforcing subpoenas.

(a) If a person who has been served with a Board subpoena fails or refuses to comply with its terms, the party seeking compliance may file a written